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January 25, 2024

BY ECF

Honorable Jennifer E. Willis
United States Magistrate Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *Hassab El Nabi v. Tocco, et al.*, 21 CV 3768 (LAK) (JW)

Your Honor:

I am plaintiff's former counsel. I write to respectfully address substitute counsel's submission yesterday at DE #79.

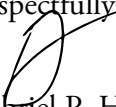
The undersigned respectfully submits that the letter and exhibits should be disregarded and stricken because in addition to lacking any relevance, the submission is unauthorized, untimely and contravenes the rules governing the fully briefed motion. *See, e.g., Lazare Kaplan Int'l Inc. v. KBC Bank N.V.*, 337 F. Supp. 3d 274, 288 (S.D.N.Y. 2018), *aff'd*, 785 F. App'x 18 (2d Cir. 2019) ("The S.D.N.Y. local rules do not contemplate the submission of a sur-reply in further opposition to a motion, and this Court's Individual Rules provide that sur-reply memoranda will not be accepted without prior permission of the Court.") (citations, brackets and internal quotation marks omitted) (collecting cases for the proposition that "a court need not consider new claims raised in supplemental letters filed without leave of the Court").

If it should please the Court, the e-mails submitted yesterday post-date the settlement, have no bearing on how it was reached and, if anything, underscore the integrity of the undersigned in his efforts to respond to misrepresentations by plaintiff's current counsel. Moreover, my communications with defense counsel took place in the context of collecting a fee and defending myself from misconduct claims, triggering the application of Rules 1.6(b)(5)(i) and (ii) of the New York Rules of Professional Conduct, which are applicable to these proceedings under Local Civil Rule 1.5.

Accordingly, we respectfully request that the submission at DE #79 be stricken and disregarded.

Thank you for your consideration of this request.

Respectfully submitted,


Gabriel P. Harvis

cc: All Counsel